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September 7, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear General Reno:

I wrote to you on June 28, 2000, to express my concern over the slow pace of the Campaign Financing Task Force's criminal investigation of the White House e-mail matter. In my letter, I included a list of significant witnesses who had not yet been interviewed at that time. Now, over two months later, the Committee has learned that there has been very little progress made in the investigation. The following list gives the names of witnesses and the date the Committee learned that they had yet to be interviewed by the Justice Department:

John Podesta	September 5, 2000
Dorothy Cleal	September 1, 2000
Adam Greenstone	August 31, 2000
Joe Kouba	August 31, 2000
Joe Vasta	August 30, 2000
Jim DeWire	August 30, 2000
Christina VanFossan	August 30, 2000
Michelle Peterson	August 28, 2000
Mark Lindsay	August 23, 2000

Comparing this list to the list we provided in June, we are aware of only two people -- Nell Doering and Virginia Apuzzo -- who have been interviewed by the Justice Department. And of these two witnesses, Ms. Apuzzo was interviewed only last week on August 30, 2000. Furthermore, the actual number of witnesses who have not been interviewed is probably much greater, in that the above list is not a total list, and it omits individuals who refused to volunteer whether or not they had been contacted for an interview.

It has now been nearly six months since the Justice Department announced it was launching a criminal investigation in the e-mail matter. I am astonished that the Justice Department has not interviewed Mark Lindsay or Michelle Peterson -- perhaps two of the

most important witnesses at the center of this controversy. As you may recall, Ms. Peterson was the Associate Counsel to the President who conducted the comparison test that the White House Counsel's Office claims provided the assurance that there was no problem with searches for e-mails under subpoena. Mark Lindsay, as you are aware, just two weeks ago testified in federal court that an affidavit on the e-mail matter prepared by Justice Department lawyers was false.

The failure to interview these significant witnesses is even more troubling given the recent announcement by the Justice Department that Daniel A. "Tony" Barry had been given a letter assuring him that he is not a target in the e-mail investigation. After Mr. Barry was officially determined not to be a target of the investigation, Mark Lindsay testified to Judge Lamberth that paragraph four of the July 9, 1999, affidavit Mr. Barry submitted to the court in the *Alexander v. FBI* case was not true. As you know, the Committee submitted to you a criminal referral on Mr. Barry based on paragraph four of his July 9, 1999, affidavit. The admission by a high-ranking official in the White House that Mr. Barry's affidavit is not true should be of great concern to you. Apparently the "no target" letter sent by your Justice Department gave the White House comfort finally to admit what was obvious to me, Judge Lamberth and others. To wit, a White House employee, aided and counseled by Justice Department lawyers, submitted a false affidavit to a federal court that concealed the failure of the White House to search for all e-mails responsive to subpoenas.

Mr. Lindsay's testimony comes hard on the heels of Independent Counsel reports that Anthony Marceca and Secretary of the Interior Bruce Babbitt lied to Congress. From my perspective, a major problem with sending Mr. Barry a "no target" letter is that his affidavit was prepared by Justice Department lawyers more sophisticated in the law than he. In essence, Justice Department lawyers are giving other Justice Department lawyers -- who should bear some culpability for the affidavit they helped draft -- a clean bill of health. This takes the conflict of interest inherent in the Department's investigation of the e-mail scandal to a new, unprecedented level. Another significant problem is that you have decided what to do with the Barry criminal referral before you have reviewed relevant evidence.

Recently, Senator Danforth wrote the following:

"Lawyers in private practice often volunteer as little information as possible. But playing it close to the line is not acceptable for people representing the United States government. Government lawyers have responsibilities beyond winning the cases at hand. They are not justified in seeking victory at all costs. A government lawyer should never hide evidence or shade the truth, and must always err on the side of disclosure.

Government lawyers carry on their shoulders responsibility for not only the prosecution of specific cases, but also for public confidence in our system of government -- the 'consent of the

governed' enshrined in the Declaration of Independence. Indeed, this responsibility rests heavily on the shoulders of all government officials."

You would be well advised to follow this advice and question your own lawyers as to who their real client was when they prepared a false affidavit for Mr. Barry to sign.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Burton". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Dan Burton
Chairman

cc: Ranking Minority Member Henry Waxman
Independent Counsel Robert Ray
Judge Royce C. Lamberth